

**Before the  
Federal Communications Commission  
Washington, D.C., 20554**

In the Matter of	)	
	)	
Wireless E911 Location Accuracy	)	PS Docket No. 07-114
Requirements	)	
	)	

**PTI PACIFICA INC.  
PETITION FOR WAIVER**

PTI Pacifica Inc. ("PTI"), doing business as IT&E, by its attorneys and pursuant to Sections 1.3 and 1.925 of the Commission's Rules<sup>1</sup> and the Public Safety and Homeland Security Bureau's March 30, 2018 *Public Notice*,<sup>2</sup> hereby seeks a waiver of Section 20.18(i)(2)(iii) of the "indoor location accuracy for 911" Rules. This waiver request mirrors the waiver request filed in this docket in 2017,<sup>3</sup> in response to the Commission's *Fourth Report and Order* in the above-captioned proceeding.<sup>4</sup> As explained previously, the Public Safety Answering Points ("PSAPs") in PTI's service areas are not capable of receiving or utilizing indoor or outdoor 911 location data and have not requested that PTI provide such location data. Accordingly, PTI requests a temporary waiver of the Commission's indoor accuracy and reporting provisions and reporting rules up to and until a PSAP served by PTI is capable of receiving and using Phase II E911 and indoor location data.

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<sup>1</sup> 47 C.F.R. §§ 1.3 and 1.925.

<sup>2</sup> *Public Safety and Homeland Security Bureau Provides Guidance to CMRS Providers Regarding Upcoming Certification Of Compliance With Three-Year E911 Location Accuracy Benchmark And Reminds CMRS Providers of Additional Location Accuracy Deadlines in 2018*, Public Notice, DA 18-323 (PSHSB Mar. 30, 2018) ("Public Notice").

<sup>3</sup> PTI Pacifica Petition for Temporary Waiver, PS Docket No. 07-114, April 27, 2017 ("PTI Pacifica 2017 Waiver Request").

<sup>4</sup> *Wireless E911 Location Accuracy Requirements*, Fourth Report and Order, 30 FCC Rcd 1259, at ¶ 157 (2015) (discussing the applicable waiver standards) ("Fourth Report and Order").

## **A. PTI SERVES REMOTE INSULAR AREAS WHERE NO PSAP HAS REQUESTED ENHANCED 911 WIRELESS SERVICES**

PTI is a Tier III provider of wireless telecommunications services in the Pacific Ocean insular territories of Guam and the Commonwealth of the Northern Mariana Islands ("CNMI"). The island of Guam is approximately 211 square miles in area with a population density of approximately 857 persons per square mile (2010). The three inhabited islands of the CNMI, Rota, Tinian, and Saipan, have a combined area of approximately 119 square miles and a population density of approximately 408 persons per square mile (2010). The 2010 population of Guam was 180,685 and of the CNMI was 48,317.

In Guam, the PSAP has limited capability to determine the location of landline calls to 911 but no capability to determine the locations of wireless calls to 911. The operation and maintenance of Guam's 911 Emergency System is through the Guam Fire Department. The Guam Fire Department is an official PSAP (hereinafter called the "Guam PSAP") and only supports Phase I E911 and only has one interface that is connected to the incumbent local exchange carrier ("ILEC") GTA TeleGuam ("GTA").<sup>5</sup> All 911 calls in Guam are routed to GTA for final delivery to the Guam PSAP.

In the CNMI, there are no street numbers; and the PSAPs on the three islands have no capability to determine the locations of either landline or wireless calls to 911. The operation and maintenance of the CNMI's 911 Emergency System is through the CNMI Department of Public Safety. The CNMI Department of Public Safety is not an official PSAP (hereinafter called the "CNMI PSAP") and supports neither Phase I E911 nor Phase II E911. It has one interface that is connected to the ILEC, PTI's parent company, The Micronesian

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<sup>5</sup> It is noted that the following military PSAPs were recently added to the FCC PSAP registry: Anderson Air Force Base Local Dispatch Center and the U. S. Navy Guam Regional Dispatch Center. PTI has not received a Phase I or Phase II E911 request from either of these military PSAPs.

Telecommunications Corporation, Inc. ("MTC"). All 911 calls in the CNMI are routed to MTC for final delivery to the CNMI PSAP.

**B. UNDER PTI's PARTICULAR CIRCUMSTANCES, TEMPORARY WAIVER OF THE INDOOR LOCATION RULES SERVES THE PUBLIC INTEREST**

PTI requests a waiver of the requirement requiring Commercial Mobile Radio Service ("CMRS") providers to provide PSAPs by April 3, 2018, dispatchable location or x/y location (latitude and longitude) within 50 meters for 50 percent of all wireless 911 calls. PTI previously requested a waiver of the associated requirements to submit to the FCC live 911 call data reports, indoor location accuracy certifications, implementation plans and progress reports required by FCC Rule Sections 20.18(i)(3)(ii)(E), 20.18(i)(3)(iii), 20.18(i)(4)(i), and 20.18(i)(4)(ii), respectively.<sup>6</sup>

As described in the preceding section, PTI serves only areas that have no PSAP that is E911 Phase II capable. The FCC rules, however, have been revised (without notice and comment) to subject CMRS carriers providing service in areas without an E911 Phase II capable PSAP to Section 20.18(i) obligations. Specifically, the *Fourth Report and Order* as adopted and released on February 3, 2015, initially excluded from 20.18(i) obligations CMRS providers with no E911 Phase II capable PSAPs in their service areas. Section 20.18(n)(1), as adopted at that time, stated: "The requirements set forth in paragraphs (d) through (n) of this section shall be applicable only to the extent that the administrator of the applicable designated PSAP has requested the services required under those paragraphs and such PSAP is capable of receiving and utilizing the requested data elements and has a mechanism for recovering the PSAP's costs

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<sup>6</sup> PTI Pacifica 2017 Waiver Request.

associated with them.”<sup>7</sup> Under the rule as adopted by the Commission on February 3, 2015, therefore, CMRS carriers like PTI that have no E911 Phase II capable PSAP in its service area had no Section 20.18(i) obligations until such time as a PSAP in its service area requested location data. One month later, however, on March 3, 2015, the Chief of the Public Safety and Homeland Security Bureau (“Bureau”) issued a document titled an *Erratum*. An *erratum* is generally defined as a list of corrected errors, typically typographical errors. In this case, the *Erratum* made a substantive change by eliminating, without explanation, the exception from Section 20.18(i) obligations for CMRS carriers operating in areas without an E911 Phase II capable PSAP. It is questionable whether the Bureau had authority to make such a substantive change in the rules, especially when the change was made without discussion.

In any event, PTI requests a waiver of the April 3, 2018 benchmark discussed in the *Public Notice* and seeks relief from the requirements to deliver indoor location data, test and report live 911 call data, certify location accuracy, file implementation plans, or file progress reports because no PSAP in PTI's service area is capable of receiving or utilizing 911 Phase II location data. Neither the Guam nor the CNMI PSAP has asked PTI to provide outdoor or indoor 911 call location data.

Even as PTI seeks a waiver so that it need not collect and report data that cannot be utilized by local PSAPs, PTI has begun seeking 911 technical experts' proposals for development of plans to implement E911 location services so that when either the Guam PSAP or CNMI PSAP is capable of receiving, processing, and utilizing the data requests for such services, the plans can be implemented in a timely manner.

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<sup>7</sup> *Fourth Report and Order*, previously available at 61 CR 1469 (Bloomberg BNA Telecommunications Law Resource Center). This language is no longer available in the FCC's EDOCS system.

### C. PTI's REQUEST MEETS THE STANDARD FOR WAIVER

The Commission may waive its rules based upon a showing of good cause.<sup>8</sup> It may exercise discretion to waive a rule where particular facts would make strict compliance with the rule inconsistent with the public interest.<sup>9</sup> The Commission may take into consideration, on a case-by-case basis, factors involving equity, hardship, or more effective implementation of overall policy.<sup>10</sup> "Waiver of the Commission's rules is therefore appropriate if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest."<sup>11</sup> In particular, a rule waiver may be granted for Wireless Radio Service Proceedings when:

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or
- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>12</sup>

PTI's request satisfies the Commission's waiver criteria, and good cause exists to relieve PTI from compliance with Rule Section 20.18(i) in light of the circumstances. The underlying purpose of the rule is to ensure CMRS carriers provide accurate E911 call location information to PSAPs. Because no PSAP in PTI's service area has either requested or become capable of receiving and utilizing E911 Phase II call location data, requiring PTI to collect E911 call location data that cannot be used by the PSAP is unduly burdensome.

The Commission recognizes the public interest in granting a waiver when "special circumstances particular to smaller carriers may warrant limited relief from 911 requirements."<sup>13</sup>

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<sup>8</sup> 47 C.F.R. § 1.3.

<sup>9</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("*Northeast Cellular*").

<sup>10</sup> See, e.g., *Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996*, *Sprint Communications Company, L.P. Petition for Waiver*, 15 FCC Rcd 16487 (2000) at ¶ 4.

<sup>11</sup> *Northeast Cellular* at 1166.

<sup>12</sup> 47 C.F.R. § 1.925(b)(3).

Circumstances previously recognized by the Commission such as "financial constraints, small and/or widely dispersed customer bases, and large service areas that are isolated, rural, or characterized by difficult terrain"<sup>14</sup> are applicable to PTI.

The public interest will be served by granting the temporary waiver so that PTI can continue to upgrade wireless service to its customers in its remote, insular service areas, rather than expending resources on collecting and reporting E911 Phase II call activity and location accuracy data that the local PSAPs cannot use.

Until the time comes when either the Guam PSAP or CNMI PSAP provides PTI with a valid request for E911 call location data, and such PSAP is funded and can receive and utilize the data, a temporary waiver of Section 20.18(i)(2)(iii) obligations is consistent with Section 1.925(b)(3) of the FCC's Rules.

No PSAP will be disadvantaged by the grant of PTI's request. PSAPs may request FCC enforcement of Section 20.18(i) only after they "have implemented policies that are designed to obtain all location information made available by CMRS providers when initiating and delivering 911 calls to the PSAP."<sup>15</sup> When either the Guam PSAP or CNMI PSAP submits a request for enhanced 911 services, PTI will cooperate with the relevant PSAP to meet its Section 20.18 obligations on a timely and mutually agreeable basis.

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<sup>13</sup> *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Petitions for Waiver of Section 20.18(g)(1)(v) of the Commission's Rules*, Order, 22 FCC Rcd 8927 (2007) at ¶ 7.

<sup>14</sup> *Id.*

<sup>15</sup> 47 C.F.R. § 20.18(i)(2)(iv).

**D. CONCLUSION**

For the foregoing reasons, PTI respectfully requests a waiver of Section 20.18(i)(2)(iii).

Respectfully submitted,

PTI Pacifica Inc.

/s/  
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## DECLARATION

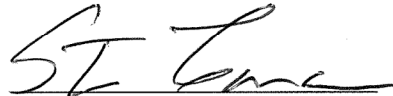
I, Steven Carrara, hereby declare under penalty of perjury as follows:

I am the General Counsel of PTI Pacifica Inc.

This Declaration is submitted in support of the foregoing Petition for Waiver.

I declare under penalty of perjury under the laws of the United States of America that the facts and information contained in the foregoing Petition are true and correct to the best of my knowledge.

Executed on 5/31/18

A handwritten signature in black ink, appearing to read "ST Carrara", written over a horizontal line.

Steven Carrara  
General Counsel  
PTI Pacifica Inc.